

JAP:RMT

M-10-207

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - - X

UNITED STATES OF AMERICA

- against -

DIOGENES GARCIA,

PRE-ARRAIGNMENT
C O M P L A I N T
(21 U.S.C. §§ 952(a)
and 960)

Defendant.

- - - - - X

EASTERN DISTRICT OF NEW YORK, SS:

DONALD FARRIER, being duly sworn, deposes and states that he is a Special Agent with United States Immigration and Customs Enforcement ("ICE"), duly appointed according to law and acting as such.

Upon information and belief, on or about March 1, 2010, within the Eastern District of New York and elsewhere, defendant DIOGENES GARCIA did knowingly, intentionally and unlawfully import into the United States from a place outside thereof heroin, a Schedule I controlled substance.

(Title 21, United States Code, Sections 952(a) and 960).

The source of your deponent's information and the grounds for his belief are as follows:^{1/}

^{1/} Because the purpose of this Complaint is to state only probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

1. At approximately 9:35 p.m. on March 1, 2010, defendant DIOGENES GARCIA arrived at John F. Kennedy International Airport ("JFK") in Queens, New York, aboard American Airlines Flight No. 1582 from Santo Domingo, Dominican Republic.

2. During an examination, a Customs and Border Protection Inspector noticed that defendant DIOGENES GARCIA appeared unusually nervous and gave inconsistent answers to routine customs questions. The defendant was traveling on a one-way ticket that had been purchased with cash two days before travel. In addition, the defendant stated that he was planning to stay with his son in New York, but he was unable to provide an address or phone number for his son so that this information could be verified. Further, the defendant has made six trips into and out of the Dominican Republic within the past year.

3. Defendant DIOGENES GARCIA was then presented with an x-ray consent form, which he refused to sign. As a result, at approximately 1:15 a.m. on March 2, 2010, the acting director of the JFK ICE Passenger Enforcement Roving Team approved a monitored bowel movement of the defendant. The defendant was then transported to the JFK medical facility at approximately 2:00 a.m.

4. At approximately 2:15 a.m., defendant DIOGENES GARCIA requested the x-ray consent form, which he read, appeared

to understand, and signed. An x-ray was then taken of the defendant's intestinal tract, which was positive for foreign bodies.

5. On March 2, 2010 at approximately 3:40 a.m., defendant DIOGENES GARCIA passed 17 pellets, one of which field-tested positive for the presence of heroin. The defendant was then placed under arrest.

6. Defendant DIOGENES GARCIA will be detained at the JFK medical facility until such time as he has passed all the pellets contained within his intestinal tract.

WHEREFORE, your deponent respectfully requests that the defendant, DIOGENES GARCIA, be dealt with according to law.


Donald Farrier
Special Agent
Immigration and Customs
Enforcement

Sworn to before me this
2d day of March, 2010

W The Honorable S/Pohorelsky elsky
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